

#### §4.9

be conducted in accordance with sections 7 and 8 of the Administrative Procedure Act (5 U.S.C. 556, 557).

#### §4.9 Representation.

The applicant may be represented before the Commission by any person who is a member in good standing of the bar of the Supreme Court of the United States or of the highest court of any State or territory of the United States, or the District of Columbia, and who is not under any order of any court suspending, enjoining, restraining, or disbaring him from, or otherwise restricting him in, the practice of law. Whenever a person acting in a representative capacity appears in person or signs a paper in practice before the Commission, his personal appearance or signature shall constitute a representation to the Commission that under the provisions of this part and applicable law he is authorized and qualified to represent the particular person in whose behalf he acts. Further proof of a person's authority to act in a representative capacity may be required. When any applicant is represented by an attorney at law, any notice or other written communication required or permitted to be given to or by such applicant shall be given to or by such attorney. If an applicant is represented by more than one attorney, service by or upon any one of such attorneys shall be sufficient.

#### §4.10 Waiver of oral hearing.

The Commission upon receipt of a statement from the Secretary that he does not object, and in the absence of any request for oral hearing from the others to whom notice has been sent pursuant to §4.7 may grant an application without receiving oral testimony with respect to it.

#### §4.11 Appearance; testimony; cross-examination.

(a) The applicant shall appear and, except as otherwise provided in §4.10, shall testify at the hearing and may cross-examine witnesses.

(b) The Secretary and others to whom notice has been sent pursuant to §4.7 shall be afforded an opportunity to appear and present evidence and cross-examine witnesses, at any hearing.

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(c) In the discretion of the Commission or presiding officer, other witnesses may testify at the hearing.

#### §4.12 Evidence which may be excluded.

The Commission or officer presiding at the hearing may exclude irrelevant, untimely, immaterial, or unduly repetitious evidence.

#### §4.13 Record for decision. Receipt of documents comprising record; timing and extension.

(a) The application and all supporting documents, the transcript of the testimony and oral argument at the hearing, together with any exhibits received and other documents filed pursuant to these procedures and/or the Administrative Procedures Act shall be made parts of the record for decision.

(b) At the conclusion of the hearing the presiding officer shall specify the time for submission of proposed findings of fact and conclusions of law (unless waived by the parties); transcript of the hearing, and supplemental exhibits, if any. He shall set a tentative date for the recommended decision based upon the timing of these preliminary steps. Extensions of time may be requested by any party, in writing, from the Parole Commission. Failure of any party to comply with the time frame as established or extended will be deemed to be a waiver on his part of his right to submit the document in question. The adjudication will proceed and the absence of said document and reasons therefor will be noted in the record.

#### §4.14 Administrative law judge's recommended decision; exceptions thereto; oral argument before Commission.

Whenever the hearing is conducted by an administrative law judge, at the conclusion of the hearing he shall submit a recommended decision to the Commission, which shall include a statement of findings and conclusions, as well as the reasons therefor. The applicant, the Secretary and others to whom notice has been sent pursuant to §4.7 may file with the Commission, within 10 days after having been furnished a copy of the recommended decision, exceptions thereto and reasons